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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-sixth session
Agenda item 3

REVIEW OF THE WORK OF THE SUB-COMMISSION

Mr. Bengoa, Mr. Bossuyt, Mr. Boutkevitch, Ms. Chavez, Mrs. Daes,
Mr. El-Hajjé, Mr. Fan, Mr. Fix Zamudio, Mrs. Forero Ucros, Mr. Guissé
Mr. Hatano, Mr. Hakim, Mr. Lindgren Alves, Mr. Maxim, Ms. Palley
Mr. Ramadhane, Ms. Warzazi and Mr. Yimer: draft resolution

Strengthening of the Centre for Human Rights

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling all relevant General Assembly resolutions,

Considering that the promotion of universal respect for and observance of human rights and fundamental freedoms is one of the basic purposes of the Charter of the United Nations and an issue of the utmost importance for the Organization,

Acknowledging the increasing attention given to the activities undertaken by the United Nations system in the field of human rights,

Recalling that the Secretary-General, in his report on the work of the Organization for 1992 (A/47/1), stated, inter alia, that the Charter of the United Nations placed the promotion of human rights as one of the priority objectives, along with promoting development and preserving international peace and security, an approach which he was also applying in his proposals for the biennium 1994-1995,

Emphasizing the important role of the Centre for Human Rights as a coordinating unit within the United Nations system in the promotion, protection and implementation of human rights and the need to provide it with sufficient human and financial resources, particularly in view of the fact that its workload has dramatically increased while resources have failed to keep pace with the expansion of its responsibilities,

Welcoming the fact that the World Conference on Human Rights made recommendations for securing the necessary financial and other resources for United Nations activities in the field of human rights,

1. Requests the Secretary-General to enhance the role and importance of the Centre for Human Rights as a coordinating unit within the United Nations system with respect to human rights;

2. Welcomes the efforts of the Secretary-General, encourages him to continue to implement measures to improve the efficiency and effectiveness of the Centre for Human Rights;

3. Also welcomes the significant achievements made by the Centre for Human Rights which contributed in no small measure to various breakthroughs realized by the United Nations in certain conflicts around the globe;

4. Requests the Secretary-General to ensure that sufficient financial, human and other resources are accorded to the Centre for Human Rights to enable it to undertake all its functions, in full and on time;

5. Also requests the Secretary-General and the competent United Nations bodies to implement, as appropriate and as a matter of urgency, the relevant recommendations which the World Conference on Human Rights made with regard to securing the necessary financial and other resources for the strengthening of the Centre for Human Rights;

6. Decides to consider the question again at its forty-seventh session.

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of Minorities
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Agenda item 3

REVIEW OF THE WORK OF THE SUB-COMMISSION

Mr. Bengoa, Mr. Bossuyt, Mr. Boutkevitch, Ms. Chavez, Mrs. Daes, Mr. El-Hajjé, Mr. Fan, Mr. Fix Zamudio, Mrs. Forero Ucros, Mr. Guissé, Mr. Hatano, Mr. Hakim, Mr. Lindgren Alves, Mr. Maxim, Ms. Palley, Mr. Ramadhane, Ms. Warzazi and Mr. Yimer: draft resolution

Strengthening of the Centre for Human Rights

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling all relevant General Assembly and Commission on Human Rights resolutions,

Considering that the promotion of universal respect for and observance of human rights and fundamental freedoms is one of the basic purposes of the Charter of the United Nations and an issue of the utmost importance for the Organization,

Acknowledging the increasing attention given to the activities undertaken by the United Nations system in the field of human rights,

Recalling that the Vienna Declaration and Programme of Action (A/CONF.157/23) stresses the importance of strengthening the Centre for Human Rights,

Noting that the activities envisaged in the Vienna Declaration and Programme of action will add further to the workload and the responsibilities of the Centre for Human Rights,

Emphasizing the important role of the Centre for human Rights as a coordinating unit within the United Nations system in the promotion, protection and implementation of human rights and the need to provide it with sufficient human and financial resources, particularly in view of the fact that its workload has dramatically increased while resources have failed to keep pace with the expansion of its responsibilities,

Emphasizing also the need to pay particular attention to the recruitment to the Centre for Human Rights of personnel from developing countries, to ensure equitable geographical distribution and in this regard to give priority in particular to recruitment to high-level and professional posts and also to the recruitment of women,

Welcoming the fact that the World Conference on Human Rights made recommendations for securing the necessary financial and other resources for United Nations activities in the field of human rights,

1. Requests the Secretary-General to enhance further the role and importance of the Centre for Human Rights, under the overall supervision of the High Commissioner for Human Rights, as the coordinating unit within the United Nations system with respect to human rights;

2. Welcomes the efforts of the Secretary-General, encourages him to continue to implement measures to improve the efficiency and effectiveness of the Centre for Human rights;

3. Requests the Secretary-General to ensure that sufficient financial, human and other resources are accorded to the Centre for Human Rights to enable it to undertake all its functions, in full and on time;

4. Also requests the Secretary-General and the competent United Nations bodies to implement, as appropriate and as a matter of urgency, the relevant recommendations which the World Conference on Human Rights made with regard to securing the necessary financial and other resources for the strengthening of the Centre for Human Rights;

5. Decides to consider the question again at it forty-seventh session.

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COMMISSION ON HUMAN RIGHTS
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Forty-sixth session
Agenda item 6

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Mr. Bengoa, Mr. Boutkevitch, Ms. Chavez, Mr. Chernichenko, Mr. Fix Zamudio, Mrs. Forero Ucros, Mr. Guissé, Mrs. Gwanmesia, Mr. Hakim, Mr. Hatano, Mr. Joinet, Mr. Khalil, Mr. Khan, Mrs. Koufa, Mr. Maxim, Ms. Palley and Mr. Yimer: draft resolution

Situation in Burundi

The Sub-Commission on Prevention of Discrimination and the Protection of Minorities,

Guided by the principles embodied in the Charter of the United Nations, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural rights,

Reaffirming that all Member States have the right and duty to promote and protect human rights and to discharge the obligations set out in the various applicable instruments,

Emphasizing that Burundi is a party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Recalling the Commission on Human Rights resolution 1994/86 of 9 March 1994,

Regretting the adverse effects of local mass media reports which foster racial hatred and violence,

Having examined with interest the comments of the Human Rights Committee at its fifty-first session (CCPR/C/79/Add.41),

Very concerned by the persistence of flagrant, systematic violations of human rights since the attempted coup d'etat on 21 October 1993, in particular the summary or extrajudicial executions carried out on a massive scale by the armed forces, the police, the gendarmerie and uncontrolled armed elements,

Noting the impunity enjoyed by those responsible for these executions, particularly because of the deterioration of the judicial system,

Seriously concerned by forcible transfers of people and the massive exodus of people from Burundi beyond the frontiers, causing the loss of cultural values and risking major nutritional problems,

Emphasizing the need to reinforce preventive measures to halt the deterioration of the situation, where this is still possible,

1. Encourages the efforts of the High Commissioner for Human Rights, the Centre for Human Rights and non-governmental organizations to accelerate the establishment of a programme of assistance in Burundi in order that the current situation of massive violations of human rights does not prevent the application of preventive measures to halt the deterioration of the situation;

2. Welcomes the conclusion of the Human Rights Committee in which it stated that it was ready to respond constructively to any appropriate request for assistance made by the Government of Burundi, provided that it is clear and accompanied by a firm resolve on the part of the Government to adopt the measures necessary for the effective implementation of the Covenant (CCPR/C/79/Add.41, para. 18);

3. Places all its facilities at the disposal of the Centre for Human Rights;

4. Expresses the fear that the prevailing situation of massive human rights violations in Burundi could impede the implementation of the measures of assistance;

5. Urges the authorities of Burundi to make fully effective all measures necessary to carry out an inquiry into summary and arbitrary executions, to punish those responsible, to disarm the population and to repress all forms of encouragement of racial hatred and to plan the establishment of an independent multi-party commission to make recommendations for the application of these measures;

6. Calls on the Committee for the Elimination of Racial Discrimination to watch the situation in Burundi with special attention and to undertake a mission to the country in preparation for its contribution to technical assistance programmes, with a view to preventing such discrimination;

7. Also calls on the Special Representative of the Secretary-General for Burundi, the High Commissioner for Human Rights, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Commission on Human Rights to invite the competent authorities to strengthen their surveillance of the human rights situation in Burundi, sending out observers with a view to preventing any re-emergence of violence.

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Agenda item 6

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Mr. Bengoa, Mr. Boutkevitch, Ms. Chavez, Mr. Chernichenko, Mr. Fix Zamudio, Mrs. Forero Ucros, Mr. Guissé, Mrs. Gwanmesia, Mr. Hakim, Mr. Hatano, Mr. Joinet, Mr. Khalil, Mr. Khan, Mrs. Koufa, Mr. Maxim, Ms. Palley and Mr. Yimer: draft resolution

Situation in Burundi

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles embodied in the Charter of the United Nations, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural rights,

Reaffirming that all Member States have the right and duty to promote and protect human rights and to discharge the obligations set out in the various applicable instruments,

Emphasizing that Burundi is a party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Recalling the Commission on Human Rights resolution 1994/86 of 9 March 1994,

Taking note of decision 2 (45) on the situation in Burundi adopted by the Committee on the Elimination of Racial Discrimination on 16 August 1994,

Regretting the adverse effects of local mass media reports which foster racial hatred and violence,

Having examined with interest the comments of the Human Rights Committee at its fifty-first session (CCPR/C/79/Add.41),

Seriously concerned by forcible transfers of people and the massive exodus of people from Burundi beyond the frontiers, causing the loss of cultural values and risking major nutritional problems,

Emphasizing the need to reinforce preventive measures to halt the deterioration of the situation, where this is still possible,

Convinced that the impunity enjoyed by the perpetrators of gross and massive human rights violations such as the assassination of the President of the Republic on 21 October 1993, the massacres of innocent civilians at the instigation of some Government officials and the subsequent repression by the army using, in many instances, excessive force, provokes an unending cycle of acts of collective vengeance,

1. Requests the establishment, by independent bodies, of the individual responsibility of those involved in the commission of those crimes, coupled with the punishment of those individuals;

2. Encourages the efforts of the High Commissioner for Human Rights, the Centre for Human Rights and non-governmental organizations to accelerate the establishment of a programme of assistance in Burundi in order that the current situation of massive violations of human rights does not prevent the application of preventive measures to halt the deterioration of the situation;

3. Welcomes the conclusion of the Human Rights Committee in which it stated that it was ready to respond constructively to any appropriate request for assistance made by the Government of Burundi, provided that it is clear

and accompanied by a firm resolve on the part of the Government to adopt the measures necessary for the effective implementation of the Covenant (CCPR/C/79/Add.41, para. 18);

4. Places all its facilities at the disposal of the Centre for Human Rights;

5. Expresses the fear that the prevailing situation of massive human rights violations in Burundi could impede the implementation of the measures of assistance;

6. Urges the authorities of Burundi to make fully effective all measures necessary to carry out an inquiry into summary and arbitrary executions, to punish those responsible, to disarm the population and to repress all forms of encouragement of racial hatred and to plan the establishment of an independent multi-party commission to make recommendations for the application of these measures;

7. Expresses the hope that an initial mission, having as its main objective the bringing of assistance to Burundi, will be appointed by the Secretary-General of the United Nations and that, as a preventive measure, the Secretary-General will have recourse to the competent organs of the United Nations;

8. Calls on the Special Representative of the Secretary-General for Burundi, the High Commissioner for Human Rights, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Commission on Human Rights to invite the competent authorities to strengthen their surveillance of the human rights situation in Burundi, sending out observers with a view to preventing any re-emergence of violence;

9. Appeals to the moderate forces in the main political parties of Burundi to work together to alleviate ethnic tension in the country by resolving the constitutional crisis on the basis of the rule of law and respect for human rights.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Mr. Alfonso Martínez, Mr. Bengoa, Mr. El-Hajje, Mr. Khan and Mr. Ramadhane: draft resolution

Situation in the Palestinian and other Arab territories occupied by Israel

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, in particular the principles of equal rights and self-determination of all peoples,

Mindful of the principles and humanitarian provisions of the Geneva Conventions of 12 August 1949 for the protection of war victims, of the principles and provisions of international law and of the obligations arising from the Regulations concerning the Laws and Customs of War on Land, annexed to the Hague Convention IV of 1907,

Recalling that, in accordance with article 1 of the Geneva Conventions of 12 August 1949, all States parties to the Conventions have undertaken to respect and to ensure respect for the Conventions in all circumstances,

Recalling also all the resolutions of the General Assembly and the Commission on Human Rights condemning the practices of the Israeli occupation authorities in the Palestinian and other Arab territories occupied by Israel which affirm the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to these territories, in particular Commission on Human Rights resolutions 1994/3 and 1994/5 both of 18 February 1994,

Recalling further the relevant Security Council resolutions, in particular resolutions 605 (1987) of 22 December 1987, 607 (1988) of 5 January 1988, 608 (1988) of 14 January 1988, 636 (1989) of 6 July 1989, 681 (1990) of 20 December 1990, 726 (1992) of 6 January 1992 and 799 (1992) of 18 December 1992,

Taking note of the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories submitted to the General Assembly and the relevant reports of the International Labour Organisation and the World Health Organization,

Reaffirming its previous resolutions in this respect, the most recent being resolution 1993/15 of 20 August 1993,

Deeply alarmed at the persistent refusal of Israel to respect the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and to apply it to the Palestinians in the occupied Palestinian territories,

Welcoming the signing of the Declaration of Principles on Interim Self-Government by the Government of Israel and the Palestine Liberation Organization on 13 September 1993, which aims at putting an end to human rights violations, as it would lead to a complete withdrawal of Israeli forces from occupied Palestinian and other Arab territories and enable the Palestinian people to exercise their national rights, mainly the right to self-determination without foreign interference,

1. Reaffirms that the ongoing Israeli occupation of Palestinian and other Arab territories, including Jerusalem, itself constitutes a gross and systematic violation of human rights and an aggression under international law;

2. Also reaffirms that the continued human rights violations in the occupied Palestinian and other Arab territories after the signing of the said accord, as happened at the Tomb of the Patriarchs of Hebron in February 1994, the massacre at the AERZ roadblock at the entry point to the Gaza Strip on 17 July 1994, the Israeli forces' entry by force into Victoria Hospital in Jerusalem in July 1994 and the continued imposition of collective punishment and isolation of occupied areas, all constitute grave violations of the principles of international humanitarian law and of the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, of the Universal Declaration of Human Rights, of the International Covenant on Economic, Social and Cultural Rights and of the International Covenant on Civil and Political Rights;

3. Further reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to the Palestinians and to the Palestinian and other Arab territories occupied by Israel, and that the continued disregard and rejection of the provisions of the Convention by Israel constitute gross violations of the principles of international humanitarian law;

4. Calls upon the States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to ensure respect by Israel for the Convention and to secure protection for the Palestinian people under occupation, until the end of this occupation, in accordance with article 1 of the Convention;

5. Reaffirms the inalienable rights of the Palestinian people to return to their homeland in accordance with General Assembly resolution 194 (III) of 11 December 1948, to self-determination without foreign interference and to establish their independent sovereign State on their national soil, in accordance with the principles and provisions of the Charter of the United Nations and with resolutions of the General Assembly and of the Commission on Human Rights;

6. Condemns the policy of Israel for:

(a) Its rejection of the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Palestinian and other occupied Arab territories, and calls upon Israel to respect its international obligations;

(b) Its gross violations of the rules of international law and of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949;

(c) Establishing Israeli settlements in the Palestinian and other occupied Arab territories, and calls for them to be dismantled and confirms that all measures taken by Israel with the purpose of annexing, or of altering the demographic, cultural, religious or other character of, those territories, including Jerusalem, are illegal, null and void;

(d) Its continued occupation of the Syrian Golan and its defiance of the relevant United Nations resolutions, in particular Security Council resolution 497 (1981) of 17 December 1981, and reaffirms that the decision by Israel in 1981 to impose its laws, jurisdiction and administration on the occupied Syrian Golan is null and void;

(e) The inhuman treatment and practices in violation of human rights which the Israeli occupation authorities continue to exercise against Syrian Arab citizens in the occupied Syrian Golan for their refusal to carry Israeli identity cards and in order to force them to carry such cards, which practices constitute a flagrant violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and requests all States and competent international organizations not to recognize any Israeli laws, jurisdiction or administration in respect of the occupied Syrian territory;

7. Requests the Secretary-General to provide the Sub-Commission, at its forty-seventh session, with an updated list of reports, studies, statistics and other documents relating to the question of the Palestinian and other occupied Arab territories, with the texts of the most recent relevant United Nations decisions and resolutions and the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, and with all other information relevant to the implementation of the present resolution.

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Forty-sixth session
Agenda item 4

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE
SUB-COMMISSION HAS BEEN CONCERNED

Mr. Bengoa, Mr. Boutkevitch, Ms. Chavez, Mrs. Daes, Mr. El-Hajjé,
Mr. Fix Zamudio, Mrs. Forero Ucros, Mr. Guissé, Mrs. Gwanmesia,
Mr. Hatano, Mr. Hakim, Mr. Khalil, Mr. Khan, Mr. Maxim, Ms. Palley,
Mr. Ramadhane, Ms. Warzazi and Mr. Yimer: draft resolution

Recognition of gross and large-scale violations of human rights as an international crime

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Aware that gross and large-scale violations of human rights are a matter of grave concern for mankind,

Believing that such violations, if they are perpetrated on the orders of Governments or are sanctioned by them, pose the greatest danger to mankind,

Having discussed the working paper (E/CN.4/Sub.2/1993/10 and Corr.1) submitted by Mr. Stanislav Chernichenko in accordance with its decision 1992/109 of 27 August 1992,

Referring to its resolution 1993/30 of 25 August 1993, concerning the appointment of Mr. Stanislav Chernichenko as Special Rapporteur to prepare a report entitled "Recognition of gross and large-scale violations of human rights perpetrated on the orders of Governments or sanctioned by them as an international crime",

Taking into account decision 1994/103 of 4 March 1994 of the Commission on Human Rights, in which it decided to request the Sub-Commission to reconsider, without prejudice to the independence of the Sub-Commission and its members, its decisions to recommend new studies and related efforts, including the above-mentioned report,

Considering, however, that the preparation of this report is very important and opportune,

Taking also into account that the Special Rapporteurs on the right to a fair trial, Mr. Stanislav Chernichenko and Mr. William Treat, completed their study in 1994,

Expressing its appreciation to Mr. Stanislav Chernichenko for the working paper on the definition of gross and large-scale violations of human rights as an international crime,

1. Decides to recommend to the Commission on Human Rights the appointment of Mr. Stanislav Chernichenko as Special Rapporteur to prepare a report entitled "Recognition of gross and large-scale violations of human rights perpetrated on the orders of Governments or sanctioned by them as an international crime";

2. Also decides to consider the report of the Special Rapporteur at its forty-seventh session under the agenda item entitled "Review of further developments in fields with which the Sub-Commission has been concerned";

3. Further decides to recommend that the Special Rapporteur take into account the comments made on his working paper at its forty-fifth and forty-sixth sessions;

4. Recommends that the Special Rapporteur include in his report a draft declaration on the question mentioned above;

5. Recommends the following draft decision to the Commission on Human Rights for adoption:

"The Commission on Human Rights, noting resolution 1994/... of ... August 1994 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, endorses the recommendation to appoint Mr. Stanislav Chernichenko as Special Rapporteur to prepare a report on the recognition of gross and large-scale violations of human rights perpetrated on the orders of Governments or sanctioned by them as an international crime, and requests the Secretary-General to provide the Special Rapporteur with all the assistance necessary for the completion of his task."

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Forty-sixth session
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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Mr. Bengoa, Mr. Bossuyt, Mr. Chernichenko, Mrs. Daes, Mr. Decaux, Mrs. Forero Ucros, Mr. Guissé, Mrs. Gwanmesia, Mr. Hakim, Mr. Khalil, Mr. Khan, Mr. Maxim, Ms. Palley, Mr. Ramadhane, Ms. Warzazi and Mr. Yimer: draft resolution

Human rights and terrorism

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights,

Bearing in mind that the most essential and basic human right is the right to life,

Recalling the Vienna Declaration and Programme of Action (A/CONF.157/23) adopted by the World Conference on Human Rights,

Recalling also General Assembly resolution 48/122 of 20 December 1993, Commission on Human Rights resolution 1994/46 of 4 March 1994 and its own resolution 1993/13 of 20 August 1993,

Reiterating its deep concern at the persistence of acts of terrorism and the gross violations of human rights perpetrated by terrorist groups,

Profoundly deploring the increasing number of innocent persons killed, massacred and maimed by terrorists in indiscriminate and random acts of violence and terror, which cannot be justified under any circumstances,

1. Reiterates its unequivocal condemnation of all acts, methods and practices of terrorism as human rights violations aimed at the destruction of fundamental freedoms and democracy, threatening the security of States, destabilizing legitimately constituted Governments, undermining pluralistic civil society and having adverse consequences on the economic and social development of States;

2. Calls upon Governments to take all necessary and effective measures, in conformity with international standards of human rights, to prevent, combat and eliminate terrorism, and urges the international community to enhance cooperation in the fight against terrorism at the national, regional and international levels;

3. Decides, in accordance with the Commission on Human Rights resolution 1994/46, to entrust Mr. Saïd Naceur Ramadhane with the task of preparing, without financial implications, a working paper on the question of terrorism and human rights, to be considered at its forty-seventh session.

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Mr. Bengoa, Mr. Bossuyt, Mr. Chernichenko, Mrs. Daes, Mr. Decaux, Mrs. Forero Ucros, Mr. Guissé, Mrs. Gwanmesia, Mr. Hakim, Mr. Khalil, Mr. Khan, Mr. Maxim, Ms. Palley, Mr. Ramadhane, Ms. Warzazi and Mr. Yimer: draft resolution

Human rights and terrorism

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights,

Bearing in mind that the most essential and basic human right is the right to life,

Recalling the Vienna Declaration and Programme of Action (A/CONF.157/23) adopted by the World Conference on Human Rights,

Recalling also General Assembly resolution 48/122 of 20 December 1993, Commission on Human Rights resolution 1994/46 of 4 March 1994 and its own resolution 1993/13 of 20 August 1993,

Reiterating its deep concern at the persistence of acts of terrorism and the gross violations of human rights perpetrated by terrorist groups,

Profoundly deploring the increasing number of innocent persons killed, massacred and maimed by terrorists in indiscriminate and random acts of violence and terror, which cannot be justified under any circumstances,

1. Reiterates its unequivocal condemnation of all acts, methods and practices of terrorism as human rights violations aimed at the destruction of fundamental freedoms and democracy, threatening the territorial integrity and security of States, destabilizing legitimately constituted Governments, undermining pluralistic civil society and having adverse consequences on the economic and social development of States;

2. Calls upon Governments to take all necessary and effective measures, in conformity with international standards of human rights, to prevent, combat and eliminate terrorism, and urges the international community to enhance cooperation in the fight against terrorism at the national, regional and international levels;

3. Decides, in accordance with the Commission on Human Rights resolution 1994/46, to entrust Mr. Saïd Naceur Ramadhane with the task of preparing, without financial implications, a working paper on the question of terrorism and human rights, to be considered at its forty-seventh session.

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Agenda item 10 (d)

THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES
THE RIGHT TO A FAIR TRIAL

Mr. Alfonso Martínez, Mr. Bengoa, Ms. Chavez, Mrs. Daes, Mr. El-Hajjé, Mr. Fix Zamudio, Mrs. Forero Ucros, Mr. Guissé, Mrs. Gwanmesia, Mr. Hatano, Mr. Khan, Mr. Lindgren Alves, Mr. Maxim, Ms. Palley, Mr. Ramadhane, Ms. Warzazi and Mr. Yimer: draft resolution

The right to a fair trial

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 1990/18 of 30 August 1993, in which it decided to entrust Mr. Stanislav Chernichenko and Mr. William Treat with the preparation of a study entitled "The right to a fair trial: current recognition and measures necessary for its strengthening",

Recalling also its resolutions 1991/14 of 28 August 1991, 1992/21 of 27 August 1992 and 1993/26 of 25 August 1993, as well as Commission on Human Rights resolutions 1991/43 of 5 March 1991 and 1992/34 of 28 February 1992 and decision 1993/106 of 5 March 1993,

Recalling, in particular, Commission decision 1994/107 of 4 March 1994, by which it decided to consider at its fifty-first session the final report of the Special Rapporteurs including, if appropriate, the desirability of a

third optional protocol to the International Covenant on Civil and Political Rights, aimed at guaranteeing under all circumstances the right to a fair trial and a remedy,

Recalling also articles 8, 10 and 11 of the Universal Declaration of Human Rights, which affirm the right of every individual to a fair and public hearing by an independent and impartial tribunal, the right to be presumed innocent until proven guilty and the right to an effective remedy,

Recalling further article 14 of the International Covenant on Civil and Political Rights, which reaffirms the right of every individual to a fair and public hearing,

Mindful of article 9, subparagraphs 3 and 4 of the International Covenant on Civil and Political Rights which require States parties to ensure that an arrested or detained person is brought promptly before a judge or similar officer and that anyone who is deprived of liberty is entitled to take proceedings before a court in order that the court may without delay determine the lawfulness of the detention and order release if the detention is not lawful,

Mindful also of article 2.3 of the International Covenant on Civil and Political Rights and article 8 of the Universal Declaration of Human Rights, which assure the right to an effective remedy for violations of human rights,

Noting that the fair trial provisions contained in articles 5, 6, 7 and 26 of the African Charter on Human and Peoples' Rights are non-derogable,

Noting also that the judicial guarantees for the protection of the rights made non-derogable by article 27 of the American Convention on Human Rights are non-derogable,

Noting further the guarantees of a fair trial and a remedy incorporated in articles 5, 7, 12, 13 and 15 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Noting in addition that articles 96 and 99 to 108 of the Geneva Convention relative to the Treatment of Prisoners of War prescribe the rights of prisoners of war in judicial proceedings; that articles 54, 64 to 74, and 117 to 126 of the Geneva Convention relative to the Protections of Civilian Persons in Time of War provide for the right to a fair trial and a remedy in occupied territories and extend fair trial guarantees in international armed conflicts to all persons including those arrested for actions relating to the conflict,

Noting additionally that common article 3 of the four Geneva Conventions of 12 August 1949 for the protection of war victims and article 6 of Additional Protocol II to the Geneva Conventions contain indispensable judicial guarantees

for the protection of the right to a fair trial during non-international armed conflicts,

Aware of the Standard Minimum Rules for the Treatment of Prisoners, the Basic Principles on the Independence of the Judiciary, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the Basic Principles on the Role of Lawyers and the Guidelines on the Role of Prosecutors, which are intended to apply at all times,

Aware also that the Human Rights Committee at its fiftieth session decided to communicate to the Sub-Commission its view that the remedies provided in article 9, subparagraphs 3 and 4 read in conjunction with article 2 are inherent in the International Covenant on Civil and Political Rights as a whole,

Aware further that the Human Rights Committee at its twenty-first session adopted General Comment No. 13 on article 14 in which it indicated that States parties should, even in times of public emergency, respect the conditions in paragraph 1 of article 14 of the Covenant,

Having examined the preparatory report (E/CN.4/Sub.2/1990/34), the preliminary report (E/CN.4/Sub.2/1991/29), the progress reports (E/CN.4/Sub.2/1992/24 and Add.1-3 and E/CN.4/Sub.2/1993/24 and Add.1-3) and the final report (E/CN.4/Sub.2/1994/24) on the right to a fair trial and a remedy, prepared by the Special Rapporteurs,

1. Expresses its appreciation to Mr. Stanislav Chernichenko and Mr. William Treat for their final report and for their recommendations for strengthening the implementation of the right to a fair trial and a remedy;

2. Also expresses its appreciation to the Governments, non-governmental organizations and bar associations that provided information for the study, for example by responding to the questionnaires prepared by the Special Rapporteurs;

3. Reaffirms that articles 2.3, 9.3, 9.4 and 14 of the International Covenant on Civil and Political Rights are inherent in the Covenant as a whole and should accordingly be considered to be non-derogable, particularly because they are necessary to protect other non-derogable rights;

4. Endorses the other recommendations of the Special Rapporteurs for strengthening the implementation of the right to a fair trial and a remedy;

5. Recommends, as suggested by the Special Rapporteurs, that the international monitoring of the right to a fair trial and a remedy continue through such bodies as the Human Rights Committee; the Working Group on Arbitrary Detention; the Special Rapporteur on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers; the European Commission and Court of Human Rights; the Inter-American Commission on and Court of Human Rights; the African Commission on Human and Peoples' Rights; and international trial observers sent by intergovernmental organizations, Governments, and non-governmental organizations;

6. Endorses the useful summary of norms and interpretations embodied in the draft body of principles on the right to a fair trial and a remedy (E/CN.4/Sub.2/1994/24, annex II) and believes it beneficial to consider the draft body of principles;

7. Notes with appreciation and approves the proposal of the Special Rapporteurs to compile, without financial implications, the entire study so that it can be published in one volume to be issued under the United Nations Human Rights Study Series;

8. Recommends the following draft decision to the Commission on Human Rights for adoption:

"The Commission on Human Rights, noting resolution 1994/... of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, expresses its appreciation to the Special Rapporteurs, Mr. Stanislav Chernichenko and Mr. William Treat, for their work on the study entitled 'The right to a fair trial: current recognition and measures necessary for its strengthening' and decides to endorse the request of the Sub-Commission to publish the full study in all the official languages of the United Nations, taking into account, inter alia, the comments received from Governments and members of the Sub-Commission, as well as the most recent developments up to the date on which the report is ready for publication, and to give the study the widest possible distribution. The Commission also decides to consider at its fifty-second session the establishment of an open-ended working group to draft a third optional protocol to the International Covenant on Civil and Political Rights aiming at guaranteeing

under all circumstances the right to a fair trial and a remedy, and recommends the following draft decision to the Economic and Social Council for adoption:

'The Economic and Social Council, recalling its decision 1994/251 of 22 July 1994, approves the endorsement by the Commission on Human Rights of the request of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to Mr. Stanislav Chernichenko and Mr. William Treat to publish their compiled report on the right to a fair trial and a remedy, as described in Sub-Commission resolution 1994/... of ... August 1994, and requests the Secretary-General to provide all assistance necessary for the compilation and publication of the compiled report.'"

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COMMISSION ON HUMAN RIGHTS
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Forty-sixth session
Agenda item 6

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Mr. Bossuyt, Ms. Chavez, Ms. Koufa, Mr. Guissé, Ms. Gwanmesia, Mr. Decaux, Mr. Khalil, Mr. Fix Zamudio, Mr. Maxim, Ms. Palley, Mr. Ramadhane and Mr. Yimer: draft resolution

Situation of human rights in Chad

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles embodied in the Charter of the United Nations, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights,

Reaffirming that all Member States have the right and duty to promote and protect human rights and to fulfil the obligations set out in the various applicable instruments,

Recalling its resolution 1993/10 of 20 August 1993,

Also recalling that Chad has ratified the African Charter of Human and Peoples' Rights,

Taking into account the fact that the democratization process has started in Chad,

Insisting that there is still room for press freedom,

Concerned, however, by the delays in implementing the majority of the measures relating to the human rights contained in the programme of the transitional Government,

Deeply concerned by the flagrant systematic violations of human rights in Chad, especially by massive summary and extrajudicial executions, by enforced disappearances and arbitrary detentions, of which human rights militants in particular are victims, and by the impunity enjoyed by those responsible for violations of human rights,

1. Strongly condemns the massive and persistent human rights violations in Chad committed by the armed and security forces, including the Republican Guard;

2. Requests the Chad authorities to put into effect measures to promote human rights and fundamental liberties, particularly by applying the proposals set out in the programme of the transitional Government;

3. Calls on the Commission on Human Rights at its fifty-first session to decide to establish a monitoring system for the general human rights situation in Chad, with a view to examining the question at its fifty-second session;

4. Decides to keep this question on the agenda at its forty-seventh session.

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Mr. Bossuyt, Mr. Boutkevitch, Ms. Chavez, Ms. Koufa, Mr. Eide, Ms. Gwanmesia, Mr. Joinet, Mr. Maxim, Ms. Palley and Mr. Ramadhane: draft resolution

Situation of human rights in Togo

The Sub-Commission on the Struggle against Discriminatory Measures and the Protection of Minorities,

Guided by the principles embodied in the Charter of the United Nations, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights,

Reaffirming that all Member States have the right and duty to promote and protect human rights and to discharge the obligations set out in the various applicable instruments,

Pointing out that Togo is a party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and of the African Charter of Human and Peoples' Rights,

Recalling Commission on Human Rights resolution 1994/78 of 9 March 1994,

Having considered with interest the comments of the Human Rights Committee at its fifty-first session (CCPR/C/79/Add.36),

Very concerned by the serious obstacles to the democratization process and seeking to encourage its development with full respect for human rights and fundamental freedoms,

Deeply concerned in this connection by the persistent gravity of the situation of human rights in Togo, particularly by the summary or extrajudicial executions, arbitrary arrests or detentions and by torture and other cruel, inhuman or degrading treatment, for which the armed and security forces are largely responsible,

Recalling the impunity enjoyed by those who commit human rights violations, particularly because of serious failings in the legal system, especially the lack of independence and impartiality of the judiciary,

Concerned by the serious attacks on freedom of the press,

Pointing out that the situation described above is a serious setback to the rule of law in Togo,

1. Strongly condemns the massive and persistent violations of human rights in Togo;

2. Requests the Togolese authorities to adopt all measures necessary to end the impunity enjoyed by those responsible for breaches of human rights;

3. Calls upon the Commission on Human Rights to appoint, at its fifty-first session, a special rapporteur with the mandate of reporting on the human rights situation in Togo.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Mr. Boutkevitch, Mr. Guissé, Mr. Fix Zamudio, Mr. Maxim and Ms. Palley: draft resolution

Situation in Bougainville

The Sub-Commission on the Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 1992/19 of 27 August 1992 concerning the protection and promotion of human rights in Bougainville,

Recalling also resolutions 1993/76 of 10 March 1993 and 1994/81 of 9 March 1994 of the Commission on Human Rights on the same subject,

Mindful of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions,

Acutely conscious of the report of the Special Rapporteur of the Commission on Human Rights on extrajudicial, summary or arbitrary executions, (E/CN.4/1994/7 and Add.1 and 2 and Corr.1 and 2) according to which a large number of human rights violations, including extrajudicial, summary and

arbitrary executions, had occurred in Bougainville since April 1991 in the context of the ongoing armed conflict between the Defence Forces of Papua New Guinea and the Bougainville Revolutionary Army,

Aware that in April 1994 an Australian Parliamentary delegation visited Bougainville, but was denied access to significant parts of the island by the Government of Papua New Guinea,

Deeply concerned at reports that the Defence Forces of Papua New Guinea continue to violate human rights and fundamental freedoms in Bougainville,

Gravely concerned that medical supplies and other humanitarian aid is being prevented from reaching sections of the Bougainville population by a military blockade imposed by the Defence Forces of Papua New Guinea, resulting in many deaths,

1. Calls on all parties to the conflict in Bougainville to respect strictly all human rights and fundamental freedoms, in particular the right to life and the right to freedom of movement;

2. Calls upon the Government of Papua New Guinea to allow, as a matter of urgency, the immediate and unconditional flow of medical supplies and other humanitarian aid into all parts of Bougainville, including the area currently subject to a military blockade;

3. Regrets that the Government of Papua New Guinea, after agreeing to negotiate, has now unilaterally suspended the negotiations;

4. Urges the Government of Papua New Guinea to resume such negotiations without delay as a means of achieving a just and peaceful resolution to the conflict in the interest of avoiding further human rights violations;

5. Also urges the Government of Papua New Guinea immediately to invite the relevant Special Rapporteurs to investigate reports of torture and extrajudicial, summary and arbitrary executions in Bougainville, and also to allow international fact-finding missions unrestricted access to Bougainville;

6. Requests the High Commissioner for Human Rights to monitor closely the situation in Bougainville and to report his findings to the Sub-Commission at its forty-seventh session.

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Mrs. Daes: draft resolution

Violations of human rights of "enclaved groups"

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided, by the provisions of the Charter of the United Nations, the International Bill of Human Rights and other international and regional human rights instruments,

Recalling Commission on Human Rights resolution 1994/22 of 1 March 1994 on the rights of persons belonging to national or ethnic, religious and linguistic minorities,

Disturbed by reports of violations of human rights and persecution of "enclaved groups" in different parts of the world,

Requests the expert on minorities, Mr. Asbjørn Eide, when he has been authorized by the Commission on Human Rights to prepare his analytical report on minorities, in accordance with paragraph 12 of Commission resolution 1994/22, to study also the issues and situations relating to "enclaved groups" and to include his comments, views and recommendations in his preliminary and final reports on minorities.